



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

June 8, 1999

Minutes of the June 8, 1999, meeting of the Commission on Governmental Ethics and Election Practices held in the First Floor Temporary Conference Room III, PUC Building, 242 State Street, Augusta, Maine.

Present: Chairman Peter B. Webster; Members Virginia Constantine, Linda W. Cronkhite, Harriet P. Henry, and G. Calvin Mackenzie; Director William C. Hain, III; Counsel Phyllis Gardiner; and Commission Assistant Diana True.

Chairman Webster called the meeting to order at 9:05 a.m. and welcomed new Commission member, the Honorable Virginia Constantine of Bar Harbor, Maine. After introducing Mrs. Constantine to the present membership by summarizing her professional experience, Chairman Webster then introduced the present members to Mrs. Constantine.

Chairman Webster thanked members for accommodating the change from the regularly scheduled meeting date and reminded members of the change of date for the July meeting to July 12, 1999.

Thereafter, the Commission considered the published agenda as follows:

Agenda Item #1: Approval of Minutes of May 10, 1999, and Special Meeting of May 21, 1999: Judge Henry moved, Mrs. Cronkhite seconded, and the Commission voted unanimously to approve the minutes of the May 10, 1999 meeting and the May 21, 1999 special meeting as presented, with amendments.

Agenda Item #2: Electronic Filing Project Status: Mr. Hain briefed Commission members on the status of the electronic filing project. The review committee process remains on hold pending presentation of a proposal by the Bureau of Information Services (BIS) and the InforME group. If that proposal is acceptable to the Commission, the staff may recommend that the Commission cancel the existing Request for Proposals and proceed with a BIS/InforME "joint venture" as proposed. Chairman inquired of Mr. Hain's confidence in BIS's ability to provide the required support. Mr. Hain responded that he is more confident of that ability now than a year ago because of BIS's experience preparing a similar project for the Department of Education.

Agenda Item #3: Enacted Legislation Affecting the Ethics Commission: Mr. Hain reported the status of bills enacted by the First Session of the 119th Legislature. He also advised the Commission that LD 1504, to amend the lobbyist registration fee provisions, was not enacted because of the apparent fiscal impact of the loss of revenues to the general fund. Counsel Gardiner informed the Commission that efforts were initiated before the Legislature recessed to have the bill recommitted to Committee in the hopes of having it reconsidered this session during

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the final "veto day." Mr. Hain will communicate with the Office of Fiscal and Program Review and the Office of Policy and Legal Analysis to offer whatever information or assistance either of those staffs may require in the event the bill is reconsidered.

Agenda Item #4A: J. Bradford Coffey, Lobbyist for Houlton Band of Maliseet Indians: Mr. Mackenzie moved, Judge Henry seconded, and members voted unanimously to assess the staff recommended penalty of \$50 (mitigated from \$100 based on no previous late filings) for the late filing of the April 1999 report.

Agenda Item #5A: John Wade Late Campaign Finance Reports (3): Mr. Hain presented a chronological explanation of the events surrounding the late filing of Mr. Wade's 42-day Post-Primary, 6-day Pre-General, and 42-day Post-General Campaign Finance Reports. Chairman Webster inquired of Counsel Gardiner regarding the relationship of any civil penalty that the Commission may assess to any prosecution by the Attorney General's Office of the Class E crime for filing campaign finance reports over 30 days late. Counsel Gardiner replied that the two actions technically are separate, but that usually the criminal prosecution is not initiated if the civil penalty is imposed. The Attorney General's Office has prosecutorial discretion in that regard.

Mr. Wade was not personally present to respond to Commission questions. The Commission having fully considered the background information presented and Mr. Wade's affidavit dated May '99 (received by the Commission on May 24, 1999), Mr. Mackenzie moved, Mrs. Constantine seconded, and members voted unanimously to assess the staff recommended statutory maximum penalty of \$5,000 for each of the three (3) late-filed campaign finance reports, a total assessed penalty of \$15,000.

Agenda Item #6: Clean Election Fund Distributions: Mr. Hain acknowledged the considerable efforts by staff members, Diana True and Dorothy Perry, in compiling the data and preparing the databases and matrices. He then presented two matrices depicting the background information for the computations of the distributions of funds under the Clean Election Act. One matrix breaks down elections into primary and general elections, contested and uncontested races, and House and Senate campaigns in 1996 and 1998, with a cumulative average and 75% of that average that represents the Clean Election Fund distribution amount as authorized by the statute for each race; the other matrix does the same for gubernatorial campaigns in 1994 and 1998. After explaining how the matrices were prepared, Mr. Hain raised the question of how expenditures by independent gubernatorial candidates that were made before the primary elections in 1994 and 1998 should be treated, recognizing that such candidates do not run in the primary elections; with amounts in both years being substantial and having the potential to impact the final computations regardless of how those expenditures are treated.

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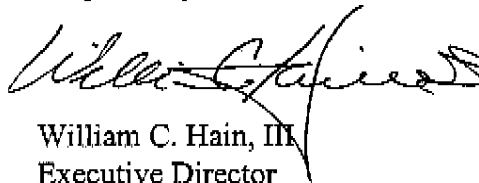
After discussion, Mr. Mackenzie moved, Judge Henry seconded and members voted unanimously to adopt the matrix presented for Senate and House candidates, to establish the distributable amounts for Clean Election Act candidates in the elections of 2000. After further discussion, Mr. Mackenzie moved, Mrs. Constantine seconded, and members voted unanimously to publish the results of the computations for the 1994 and 1998 gubernatorial elections and to seek public comment on the results and, specifically, the disposition of the amounts expended by independent candidates before the primary elections. The staff will endeavor to receive that public comment, prepare a revised matrix considering that comment, and present that information for the Commission's consideration before the end of the calendar year.

Judge Henry inquired about the COGEL Conference scheduled to be held in Providence, RI, in December 1999. Mr. Hain responded that he will obtain information for presentation at the next meeting. Chairman Webster encouraged as many members as may be able to attend the conference as a beneficial opportunity to engage professionally with members of other state ethics commissions.

At 10:20 members unanimously voted to go into executive session to discuss the status of lawsuits challenging the Maine Clean Election Act and the lobbyist registration fees. At 10:45 a.m., by unanimous vote, members went out of executive session. No actions were taken during the executive session that required ratification in open session.

On motion and unanimous vote, the Commission adjourned at 10:45 a.m.

Respectfully submitted,



William C. Hain, III
Executive Director